

EXHIBIT 4

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KIMBERLY PLETCHER,)
Plaintiff,) Case No. 2:20-cv-00754-NBF
)
And)
)
JUDITH MARCH, JOSIAH KOSTEK,)
GRAYDON GRAHAM, RONNIE)
STURCHIO, NICHOLAS CONLEY,)
SHARON BURTON, DEBBIE)
VIDOVICH, PAUL SHEPHERD,)
GERALD THOMCHICK, CONNIE)
WINNER, JOHN DURSO, TRACY)
O'CONNOR, DOUGLAS JANASZEK,)
OWEN BURK, BEN ZYTNICK,)
GREGORY MANDICH, JOHN)
BLACKSTONE, JAMES LEONARD,)
KATHLEEN CUNNINGHAM, JAMIE)
MARKS-BORICHEVSKY, POLLY)
QUINTILIANI, CAROLYN L.)
STEWART, TOMMY WYNKOOP,)
TAMMIE AIKEN, STEVEN PARSONS,)
JEFFREY COULSON, KATHERINE)
DUCKSTEIN, NATHANIEL DOLLAR,)
THOMAS BENSOR, VICKI PARKER,)
STEPHEN MCRAE, KRISTIE)
HARNISH, MOLLY SHIRK, MICHAEL)
HAMMERS,)
)
Consolidated Plaintiffs,)
)
v.)
)
GIANT EAGLE, INC. and C&J)
GROCERY CO., LLC,)
)
Defendants.)

DECLARATION OF DIANA MANCINI LIEBMAN

I, Diana Mancini Liebmann, submit this declaration in connection with the above-captioned case.

1. I am an adult female, over the age of 18.

2. I have personal knowledge of the facts set forth in this declaration.

3. I am currently employed as a Health and Beauty Care Lead at the Giant Eagle Oil City location, where I have been employed for 10 years. In my role, I also act at various times as acting Store Leader.

4. On May 16, 2020, I was working at the store as acting Store Leader. Our store greeter, who was positioned at the store entrance, called me to the front of the store because a customer, Plaintiff Josiah Kostek, refused to wear a face covering and was yelling at Team Members.

5. As I approached the front of the store I could hear and see Mr. Kostek yelling about refusing to wear a face covering. Specifically, Mr. Kostek shouted, “my body, my choice” and “I live in America.”

6. Mr. Kostek continued to walk through the store without a face covering, yelling that he did not have to wear a mask because Giant Eagle’s rules were illegal.

7. Mr. Kostek yelled over anyone’s attempts to speak with him.

8. I told Mr. Kostek that he could leave the store or we would call the police. Mr. Kostek told me to call the police, and I did.

9. While I was calling the police, Mr. Kostek approached the service desk and asked to purchase tobacco. Greg Felmlee, the Produce Manager, told the service desk cashier not to wait on Mr. Kostek because he refused to wear a face covering while in the store.

10. Mr. Kostek moved very close to Mr. Felmlee and began yelling at him.

11. The police arrived and led Mr. Kostek out of the store. I could see Mr. Kostek yelling at another customer in the parking lot of the store. A police officer placed handcuffs on Mr. Kostek, put him in the police car, and drove away.

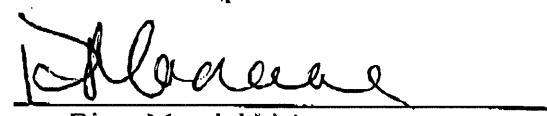
12. Afterwards, the police officer who arrested Mr. Kostek called me and told me that Giant Eagle should send Mr. Kostek a “no trespass” letter. He told me that Mr. Kostek is known for entering retail businesses, causing a scene, and then attempting to sue the retailers.

13. Following the recommendation of the police officer, I prepared a no trespass letter to Mr. Kostek and had manager James Dailey sign it. I mailed the letter to Mr. Kostek on May 30, 2020.

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I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of July 2020.



Diana Mancini Liebmann